

meets the definition of attorney or representative, and the petitioner has otherwise set forth by the requisite standard of proof that he or she possesses the qualifications set forth herein, and that reinstatement will not be detrimental to the administration of justice, the Board shall grant the petition and reinstate the practitioner. The Board, in its discretion, may hold a hearing to determine if the practitioner meets all of the requirements for reinstatement.

(c) *Appearance after reinstatement.* A practitioner who has been reinstated to practice by the Board must file a new Notice of Entry of Appearance of Attorney or Representative in each case on the form required by applicable rules and regulations, even if the reinstated practitioner previously filed such a form in a proceeding before the practitioner was disciplined.

[65 FR 39526, June 27, 2000, as amended at 73 FR 76926, Dec. 18, 2008]

§ 1003.108 Confidentiality.

(a) *Complaints and preliminary inquiries.* Except as otherwise provided by law or regulation, information concerning complaints or preliminary inquiries is confidential. A practitioner whose conduct is the subject of a complaint or preliminary inquiry, however, may waive confidentiality, except that the EOIR disciplinary counsel may decline to permit a waiver of confidentiality if it is determined that an ongoing preliminary inquiry may be substantially prejudiced by public disclosure.

(1) *Disclosure of information for the purpose of protecting the public.* The EOIR disciplinary counsel may disclose information concerning a complaint or preliminary inquiry for the protection of the public when the necessity for disclosing information outweighs the necessity for preserving confidentiality in circumstances including, but not limited to, the following:

(i) A practitioner has caused, or is likely to cause, harm to client(s), the public, or the administration of justice, such that the public or specific individuals should be advised of the nature of the allegations. If disclosure of information is made pursuant to this paragraph, the EOIR disciplinary counsel

may define the scope of information disseminated and may limit the disclosure of information to specified individuals and entities;

(ii) A practitioner has committed criminal acts or is under investigation by law enforcement authorities;

(iii) A practitioner is under investigation by a disciplinary or regulatory authority, or has committed acts or made omissions that may reasonably result in investigation by such authorities;

(iv) A practitioner is the subject of multiple disciplinary complaints and the EOIR disciplinary counsel has determined not to pursue all of the complaints. The EOIR disciplinary counsel may inform complainants whose allegations have not been pursued of the status of any other preliminary inquiries or the manner in which any other complaint(s) against the practitioner have been resolved.

(2) *Disclosure of information for the purpose of conducting a preliminary inquiry.* The EOIR disciplinary counsel, in the exercise of discretion, may disclose documents and information concerning complaints and preliminary inquiries to the following individuals and entities:

(i) To witnesses or potential witnesses in conjunction with a complaint or preliminary inquiry;

(ii) To other governmental agencies responsible for the enforcement of civil or criminal laws;

(iii) To agencies and other jurisdictions responsible for disciplinary or regulatory investigations and proceedings;

(iv) To the complainant or a lawful designee;

(v) To the practitioner who is the subject of the complaint or preliminary inquiry or the practitioner's counsel of record.

(b) *Resolutions reached prior to the issuance of a Notice of Intent to Discipline.* Resolutions, such as warning letters, admonitions, and agreements in lieu of discipline, reached prior to the issuance of a Notice of Intent to Discipline, will remain confidential. However, such resolutions may become part of the public record if the practitioner becomes subject to a subsequent Notice of Intent to Discipline.

§ 1003.109

(c) *Notices of Intent to Discipline and action subsequent thereto.* Notices of Intent to Discipline and any action that takes place subsequent to their issuance, except for the imposition of private censures, may be disclosed to the public, except that private censures may become part of the public record if introduced as evidence of a prior record of discipline in any subsequent disciplinary proceeding. Settlement agreements reached after the issuance of a Notice of Intent to Discipline may be disclosed to the public upon final approval by the adjudicating official or the Board. Disciplinary hearings are

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open to the public, except as noted in § 1003.106(a)(1)(v).

[65 FR 39526, June 27, 2000, as amended at 73 FR 76926, Dec. 18, 2008]

§ 1003.109 Discipline of government attorneys.

Complaints regarding the conduct or behavior of Department attorneys, Immigration Judges, or Board Members shall be directed to the Office of Professional Responsibility, United States Department of Justice. If disciplinary action is warranted, it shall be administered pursuant to the Department's attorney discipline procedures.